

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-146-C – ORDER NO. 2004-497  
OCTOBER 13, 2004

IN RE: Application of Affordable Phone Services,	)	ORDER GRANTING
Inc. for a Certificate of Public Convenience	)	APPLICATION
and Necessity to Provide Competitive Local	)	
Exchange Telecommunications Services	)	
within the State of South Carolina.	)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Affordable Phone Services, Inc. (“APS” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide telecommunications services between and among locations within the State of South Carolina as a provider of local exchange telecommunications services. The Company’s Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2003) and the Rules and Regulations of the Commission of South Carolina.

By letter, the Commission’s Executive Director instructed APS to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceeding. APS complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. There were no intervenors in this Docket.

A hearing was commenced on September 1, 2004, at 2:30 p.m. in the Commission's Hearing Room. The Honorable Randy Mitchell, Chairman, presided. John J. Pringle, Jr., Esquire, represented the Company. Jocelyn Boyd, Staff Counsel, represented the Commission Staff. Joseph Fernandez, Growth and Development Manager of APS, appeared and testified in support of the Application.

According to the record, the Company is a Florida corporation incorporated in the State of Florida as High Tech Communications of Central Florida, Inc. on May 1, 1993. The name of the corporation was changed from High Tech Communications of Central Florida, Inc. to Affordable Phone Services, Inc. on September 25, 2003.

According to Mr. Fernandez, APS was created to serve fixed-income and other consumers who may have difficulty affording or qualifying for local service with traditional providers of local telecommunications services. APS is seeking authority from the Commission to provide resold competitive local exchange telecommunications services throughout the state of South Carolina in the areas served by BellSouth Telecommunications, Inc. ("BellSouth"). Upon grant of certification, APS intends to offer standard and prepaid local telecommunications services primarily to residential customers in the State of South Carolina pursuant to its negotiated interconnection agreement with BellSouth.

Mr. Fernandez opined that APS possesses the technical, managerial, and financial resources to provide telecommunications services in the State of South Carolina. With regard to the Company's managerial ability, he stated that the Company has the managerial ability and experience in the telecommunication industry that will allow it to

be a successful competitive local exchange provider in South Carolina. The record reveals that Joel Leonard serves as the President, and Ersilia Leonard serves as Secretary and Treasurer of APS. Mr. Leonard has 28 years of telecommunications experience. His experience ranges from a variety of management and sales positions in the telecommunications field. He is also certified in a variety of telephone systems from various companies.

Mr. Fernandez stated that he is the Growth and Development Manager of APS. Mr. Fernandez stated that after receiving an honorable discharge from the United States Marine Corps, he worked in retail as a Sales Manager for a number of years before owning and operating Ocala Computer Consulting, Inc., a computer consulting company. Mr. Fernandez has worked for APS for nearly two years. He currently handles negotiations between APS and the various ILECs, as well as regulatory and compliance matters with the designated states' Public Service Commissions. He is responsible for learning and implementing the specific companies' provisioning process upon completion of an agreement with the respective ILEC.

With regard to the Company's financial ability to operate as a telecommunications carrier, Mr. Fernandez states that APS has sufficient financial capability to provide the requested telecommunications services in South Carolina and has the financial capability to maintain these services.

With respect to the customer service to be offered by the Company, the record reveals that APS will offer comprehensive customer service on its toll-free telephone number 1 (877) 369-0999. Customer service agents will be available from 8:00 am –

5:00 pm EST, via its toll-free customer service number in connection with a broad range of service matters, including a) the types of services offered by APS; b) the rates associated with APS' services; c) APS' monthly billing statements, d) problems or concerns pertaining to a customer's service; and e) non-emergency maintenance and repair requests.

APS will bill its own customers, utilizing its own billing system. Customer bills will include APS' name, the toll-free telephone number for customer inquiries, the applicable service period, the customer's name, and the customer's telephone or account numbers. In addition, APS will maintain a state-of-the art customer care center in which both agents and customers can call toll free and request billing, order status, and product information. To provide an extra element of service to South Carolina consumers, all APS agents will be able to access their respective customer information via the Internet.

Mr. Fernandez asserts that the Company will operate in compliance with all applicable statutes, regulations, and Commission orders. Further, Mr. Fernandez assured the Commission that the Company's services will meet applicable service standards and that the Company will support universally available telephone service at APS prices. Further, Mr. Fernandez offered that approval of the Application serves the public interest, improving the overall quality and variety of services available in South Carolina by providing business and residential customers competitive rates and capable, responsive customer service. By offering customers greater variety and choice among local exchange carriers, Mr. Fernandez testified that APS' presence in the South Carolina market will increase competition in the telecommunications and data communications

services market, and motivate other companies to provide innovative services, improve the quality of their networks, and lower prices.

According to the testimony, the Company has not marketed its services in South Carolina prior to receiving certification, and the Company has not received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Mr. Fernandez stated that the Company will abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to provide local exchange telecommunications services in South Carolina. Mr. Fernandez further committed his Company to file the Commission's required financial reports in a timely fashion.

Mr. Fernandez discussed the Company's request for certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA") and requests that it alternatively be permitted to maintain its books of accounts in accordance with Generally Accepted Accounting Principles ("GAAP"). Additionally, the Company seeks a waiver of 26 S.C. Code Ann. Regs. 103-631 (1976 & Supp. 2003) so that it will not be required to publish local exchange directories. The Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's CLEC databases into the master customer database of the local exchange carrier. The Company also seeks a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976 & Supp. 2003)

so that the Company can maintain its records outside of South Carolina. The Company wishes to maintain books and records at its headquarters in Ocala, Florida.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. The Company is a privately held corporation duly incorporated and existing under the laws of the State of Florida and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange telecommunications services and wishes to provide its services in South Carolina.

3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1) (Supp. 2003).

4. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2003).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4) (Supp. 2003).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2) (Supp. 2003).

7. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2003).

### **CONCLUSIONS OF LAW**

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services as described in the Application.

2. The Commission concludes that the Company’s “provision of service will not adversely impact the availability of affordable local exchange service.”

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

6. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to the Company to

provide competitive local exchange services in the territories of non-rural Incumbent Local Exchange Carriers (“ILECs”) in South Carolina.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to the Company to provide resold or facilities-based intrastate local exchange telecommunications services including optional services.

2. APS shall file, prior to offering local exchange services in South Carolina, its final local service tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies occurring during non-office hours. APS shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>. This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.



4. APS shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. APS shall be required to comply with Title 23, Chapter 47, South Carolina Code of Laws Ann. which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs APS to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research and Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting county 911 coordinators. By this Order and prior to providing voice or dial tone services within South Carolina, APS is directed to contact the 911 coordinator in each county, as well as the 911 coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

6. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

7. APS shall file financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, APS shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission's requirements of filing an annual report and a gross receipts report. The proper form for filing annual information for the annual report can be found on the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>. This form is entitled "Annual Report for Competitive Local Exchange Carriers." The Company shall file the annual report with the Commission by April 1<sup>st</sup> of each year.

Commission gross receipts forms are due to be filed with the Commission no later than August 31<sup>st</sup> of each year. The appropriate form for remitting information for gross receipts is entitled "Gross Receipts Form for Utility Companies" and may also be found on the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>.

Additionally, pursuant to the Commission's regulations, the Company shall file a "CLEC Service Quality Quarterly Report." The proper form for this report is found on the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>. The "CLEC Service Quality Quarterly Reports" shall be filed within 30 days of the end of each calendar year.

8. The Federal Communications Commission ("FCC") in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina

telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this requirement, go to the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>

9. For good cause shown, APS is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Principles rather than the Uniform System of Accounts method.

10. For good cause shown, APS is granted a waiver of the requirements that the Company publish and distribute a directory under 26 S.C. Code Ann. Regs. 103-631. APS is ordered to contact the incumbent ILECs to ensure that the Company's customers are included in the applicable directory.

11. For good cause shown, APS is granted a waiver of 26 S.C. Regs. 103-610 (1976 and Supp. 2003) requiring the Company to maintain its financial books and records within the State of South Carolina. The Company is hereby granted permission to maintain its financial books and records at its principal headquarters.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice Chairman

(SEAL)